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Docket No.: 5000-006

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Anatole LOKSHIN

U.S. Patent Application No. 10/774,519

Filed: February 10, 2004

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Confirmation No.8690

Group Art Unit: 3662

Examiner: FRED H. MULL

For: ASYNCHRONOUS ASSISTED GPS POSITION DETERMINATION

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

By Official Action mailed June 20, 2005 restriction to one of the following inventions is required under 35 USC 121:

- I. Claims 1-29 and 32-35, drawn to assisting GPS positioning using GPS parity algorithms to reconstruct data bits of GPS signal, classified in class 342, subclass 357.15.
- II. Claims 30-31 and 36, drawn to determining a GPS signal strength and proceeding to determine the position based on the signal strength, classified in class 342, subclass 357.15.

In response, Applicant hereby elects Group I (claims 1-29 and 32-35) for examination in this case with traverse, as the Examiner has failed to meet the burden for a restriction requirement.

A proper restriction requirement must meet two criteria:

- (a) the invention must be independent or distinct as claimed; and

(b) there must be a serious burden on the Examiner if restriction is required. The Examiner is referred to MPEP §803 "Criteria for Restriction Between Patentably Distinct Inventions."


The Examiner has failed to show by any explanation that the claims are separately classified, or have a separate status in the art, or require a different field of search. In fact, the Examiner has already performed one search of both sets of claims and issued a first Office Action thereon. No substantive broadening claim amendments having been made, the Examiner has failed to supply any reasoning why an update of the existing search cannot be performed. Further, the Examiner indicates in the Restriction Requirement that both sets of claims are in the same classification and sub-classification. Because the Examiner has failed to satisfy at least the requirement that there must be a serious burden on the Examiner, the Restriction Requirement should be withdrawn.

Early examination on the merits is courteously solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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